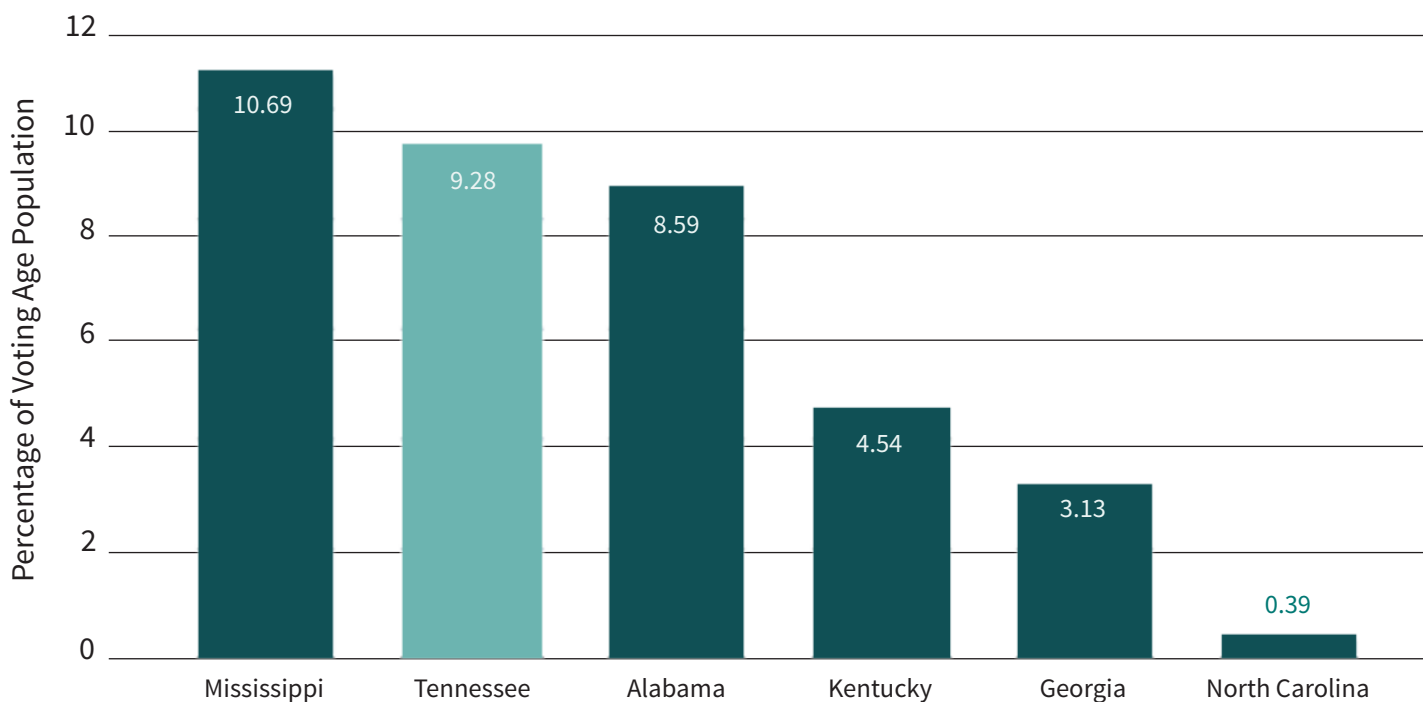


Tennessee Denies Voting Rights to Over 470,000 Citizens

Tennessee denies the right to vote to more people with a felony conviction than 49 other states.¹ Second only to Florida, 471,592 Tennesseans are excluded from participation in our democracy, representing 9.3% of the state's voting age population. Tennessee has the country's highest rate of disenfranchisement for both Black and Latinx Americans.² Driving this nationally high disenfranchisement rate is the state's suspension of voting rights for 68,810 citizens on probation and parole, and 377,157 citizens who have completed their sentence.³ To ameliorate this racial injustice and protect its democratic values, Tennessee lawmakers should extend voting rights to all people affected by the criminal legal system.

Rates of Disenfranchisement in Tennessee and Neighboring States, 2022



Uggen, C., Larson, R., Shannon, S., & Stewart, R. (2022). *Locked out 2022: Estimates of people denied voting rights due to a felony conviction*. The Sentencing Project.

Racial Injustice Causes Disparities in Disenfranchisement

People of color are disproportionately disenfranchised in Tennessee because they are overrepresented in its criminal legal system. Tennessee denies voting rights to 21% of Black voting age citizens and 8% of Latinx

voting age citizens due to system involvement. The rate of disenfranchisement for Black Tennesseans is nearly four times the national average for Black Americans.⁴

Racial bias and discrimination in the justice system lock people of color out of the democratic process. While Black people make up only 17% of Tennessee's

population, they represent 43% of Tennesseans disenfranchised due to confinement in prisons, and 36% of Tennesseans disenfranchised due to felony probation and parole.⁵ The racial injustices of the Tennessee legal system have gained the attention of the state's supreme court, resulting in the creation of a two-year plan by the Access to Justice Commission to reduce systemic discrimination.⁶

Racial disparities in Tennessee's criminal legal system go beyond differences in criminal offending and stem from factors including implicit bias affecting police and prosecutorial decisions-making.⁷ For example, Nashville and Memphis police have arrested Black Tennesseans at roughly three times the rate of non-Black residents, targeting communities of color for low-level arrests.⁸ As recently as 2019, Tennessee was one of only 14 states in which all elected prosecutors were white.⁹

Tennessee's Felony Voting Laws Remain Outdated and Inaccessible

Tennessee's complicated and protracted voting restoration process prevents many Tennesseans with felony convictions from regaining their right to vote. Under Tennessee's current law, people convicted of felonies can regain their voting rights only after completing their sentence and repaying court fees and outstanding child support.¹⁰ However, voting rights are not automatically restored when citizens become re-eligible. Those wishing to apply for voting restoration must file a separate form for each felony conviction.¹¹ The forms must be completed by a probation or parole officer, or criminal court clerk—many of whom have not been trained on the process.¹² Regulations for voting restoration vary across county lines; there is no universal process through which to attain a Certificate of Restoration, nor a uniform method of determining eligibility.¹³ Rejections come with no explanatory statements, and there are no official means for appeal.¹⁴

Tennessee's voting restoration process is also not open to everyone with a felony conviction. The state constitution specifies that citizens convicted of "infamous" crimes—as classified by trial judges—can

be permanently disenfranchised.¹⁵ Eligibility for voting rights restoration depends upon the type of offense and year of conviction, meaning that Tennessee does not have one universal law regarding enfranchisement.¹⁶ Many Tennesseans with felony convictions are uninformed of their eligibility for voting restoration. For those who are aware of their rights, monetary and bureaucratic barriers prevent them from regaining their right to vote.

Supporting Voting Rights Improves Public Safety

Research shows that an opportunity to participate in democracy has the potential to reduce one's perceived status as an "outsider."¹⁷ The act of voting can have a meaningful and sustaining positive influence on justice-impacted citizens by making them feel they belong to a community.¹⁸ Having a say and a stake in the life and well-being of your community is at the heart of our democracy.

Re-enfranchisement can facilitate successful re-entry and reduce recidivism. The University of Minnesota's Christopher Uggen and New York University's Jeff Manza find that among people with a prior arrest, there are "consistent differences between voters and non-voters in rates of subsequent arrest, incarceration, and self-reported criminal behavior."¹⁹ Research also suggests having the right to vote immediately after incarceration matters for public safety. Individuals in states which continued to restrict the right to vote after incarceration were found to have a higher likelihood of experiencing a subsequent arrest compared to individuals in states who had their voting rights restored post-incarceration.²⁰ Given re-enfranchisement misinformation and obstacles facing justice-impacted citizens upon re-entry into our communities, one path to bolster public safety and promote prosocial identities is to preserve voting rights during incarceration.

Allowing people to vote, including persons completing felony sentences in prisons and jails, under community supervision for a felony conviction, and those who have completed their sentences prepares them for more successful reentry and bolsters a civic identity.

By ending disenfranchisement as a consequence of incarceration, Tennessee can improve public safety while also promoting reintegrative prosocial behaviors.

Tennessee Can Preserve its Democracy by Restoring the Right to Vote

Excluding an entire population of people from exercising their right to vote undermines democracy. Between January 2020 and September 2022, only 2,034 Tennesseans with felony convictions successfully restored their voting rights—less than 1% of people who had completed their sentence.²¹ Dispelling notions that people with convictions do not wish to engage in the political process, studies have found that voter turnout is greater in states that actively inform formerly incarcerated people of their rights.²²

Relieving the barriers to enfranchisement for Tennesseans with felony convictions requires a change in the law. The Campaign Legal Center and the Tennessee NAACP have brought a lawsuit against Tennessee, arguing that the failures of the state's restoration process violate the Equal Protection Clause and the National Voter Registration Act.²³ Natasha Baker of Equal Justice Under Law, a non-profit law organization dedicated to achieving equality in the criminal justice system and ending cycles of poverty,²⁴ states: "There is still a long road ahead, but the path to restoring the right to vote for hundreds of thousands of Tennesseans just got clearer."²⁵

Universal voting promotes fair and equal representation and establishes trust between communities and their governments. Tennessee should take immediate action to remedy its outdated restoration system and re-enfranchise its entire voting age population, regardless of criminal legal involvement. Tennessee should join Maine, Vermont, Puerto Rico, and Washington, D.C. in ensuring all of their citizens can participate in our democratic process.

ENDNOTES

- ¹ Uggen, C., Larson, R., Shannon, S., & Stewart, R. (2022). *Locked out 2022: Estimates of people denied voting rights due to a felony conviction*. The Sentencing Project.
- ² Uggen et al. (2022), see note 1.
- ³ Uggen et al. (2022), see note 1.
- ⁴ Uggen et al. (2022), see note 1.
- ⁵ Uggen et al. (2002), see note 1.
- ⁶ Tennessee Supreme Court Access to Justice Commission: 2018-2022 Strategic Plan. (2020). *Strategic plan 2020 update*. Justice for all: A Tennessee Supreme Court initiative. https://www.tncourts.gov/sites/default/files/docs/2020_atjc_strategic_plan.pdf
- ⁷ Ghandnoosh, N. (2015, February 2). *Black Lives Matter: Eliminating Racial Disparities in the Criminal Justice System*. The Sentencing Project.
- ⁸ Reicher, M. (2016, July 28). Racial disparities in arrest: How does Nashville compare? *The Tennessean*. <https://www.tennessean.com/story/news/crime/2016/07/28/racial-disparities-arrests-how-does-nashville-compare/87622542/>
- ⁹ Thomas, W.C. (2019, January 15). Tennessee's population is 18 percent black. None of its district attorneys are. *MLK50 Justice Through Journalism*. <https://mlk50.com/2019/01/15/tennessees-population-is-18-percent-black-none-of-its-district-attorneys-are/>
- ¹⁰ Friedman, A. (2021, February 8). Tennessee says most former felons can vote. They disagree. *Jackson Sun*. <https://mlk50.com/2019/01/15/tennessees-population-is-18-percent-black-none-of-its-district-attorneys-are/>
- ¹¹ Tennessee Secretary of State. (2022). *Eligibility to vote after felony conviction*. <https://sos.tn.gov/products/elections/restoration-voting-rights>
- ¹² Lewis, N. (2019, September 9). Tennessee's voter restoration gauntlet. *The Marshall Project*. <https://www.themarshallproject.org/2019/09/19/tennessee-s-voter-restoration-gauntlet>
- ¹³ Lyon, G. (2020, July 20). CLC sues Tennessee for restricting citizens' right to vote. *Campaign Legal Center*. <https://campaignlegal.org/update/clc-sues-tennessee-restricting-citizens-ability-vote>
- ¹⁴ TN NAACP vs. Lee, 3:20-cv-01039 (Tennessee District Court December 3, 2020). <https://campaignlegal.org/sites/default/files/2020-12/1%20-%20Complaint%20for%20Declaratory%20and%20Injunctive%20Relief%20%281%29.pdf>
- ¹⁵ Tennessee Secretary of State (2022), see note 11.
- ¹⁶ Tennessee Secretary of State (2022), see note 11.
- ¹⁷ Uggen, C., & Manza, J. (2004). Voting and subsequent crime and arrest: Evidence from a community sample. *Columbia Human Rights Law Review*, 36(1), 193-216.; Aviram, H., Bragg, A., & Lewis, C. (2017). Felon Disenfranchisement. *Annual Review of Law and Social Science*, 13, 295-311. <https://doi.org/10.1146/annurev-lawsocsci-110316-113558>; Miller, B. L., & Agnich, L. E. (2016). Unpaid debt to society: Exploring how ex-felons view restrictions on voting rights after the completion of their sentence. *Contemporary Justice Review*, 19(1), 69-85. <https://doi.org/10.1080/10282580.2015.1101685>
- ¹⁸ Uggen et al. (2022), see note 1.
- ¹⁹ Uggen & Manza (2004), see note 17.
- ²⁰ Hamilton-Smith, G. P., & Vogel, M. (2012). Felony Disenfranchisement. *Berkeley La Raza Law Journal*, 22, 407- 432. <https://doi.org/10.1146/annurev-lawsocsci-110316-113558>
- ²¹ Uggen et al. (2022), see note 1.
- ²² Lewis, N., & Calderón, A. R. (2021, June 23). Millions of people with felonies can now vote: Most don't know it. *The Marshall Project*. <https://www.themarshallproject.org/2021/06/23/millions-of-people-with-felonies-can-now-vote-most-don-t-know-it>
- ²³ TN NAACP vs. Lee, 3:20-cv-01039, see footnote 14.
- ²⁴ Equal Justice Under Law. (n.d.) *Our Mission*. <https://equaljusticeunderlaw.org/about>
- ²⁵ Baker, N. (2022, April 8). Class Action Challenging Voter Suppression in Tennessee Survives Motion to Dismiss. *Equal Justice Under Law*. <https://equaljusticeunderlaw.org/thejusticereport/2022/7/12/class-action-challenging-voter-suppression-in-tennessee-survives-motion-to-dismiss>